

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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XIAMIN ZENG,

Plaintiff,

19-cv-3218 (JGK)

- against -

ORDER

INSPECTOR JOHN CHELL, ET AL.,

Defendants.

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JOHN G. KOELTL, District Judge:

It has been brought to the Court's attention that defendants Inspector John Chell and Police Officer Christopher Robley have not been served with process in this case. Although a summons was issued for Inspector Chell, the Marshal was unable to execute service. ECF No. 15. It appears that no summons has been issued for Officer Robley, who was named as a defendant in the plaintiff's second amended complaint, which was filed when the plaintiff was proceeding pro se. ECF No. 68.

Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed. However, if a defendant is not served within that 90-day window, the Court may "order that service be made within a specified time." Fed. R. Civ. P. 4(m). Accordingly, the time for the plaintiff to serve Inspector Chell is extended until **February 21, 2023**. If the plaintiff wishes to continue pursuing the claims against Inspector Chell, counsel for the plaintiff should take the necessary steps to see that the

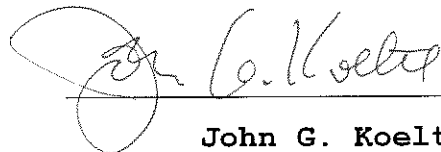
summons and second amended complaint are served on Inspector Chell. Counsel for the plaintiff may obtain a new summons from the Clerk of Court. Because the plaintiff has been granted permission to proceed in forma pauperis ("IFP"), the plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013); 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3).

The New York City Law Department is further directed to provide the Court and the plaintiff with an address where Officer Robley may be served by **January 23, 2023**. The time for the plaintiff to serve Officer Robley is extended for 60 days following the Law Department's provision of a service address for Officer Robley. As with Inspector Chell, counsel for the plaintiff may obtain a summons from the Clerk of Court, and the plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service.

If the plaintiff fails to serve Inspector Chell and Officer Robley within the time limits above, the case will be dismissed without prejudice against those defendants for failure to prosecute pursuant to Fed. R. Civ. P. 4(m).

**SO ORDERED.**

**Dated: New York, New York  
December 23, 2022**



**John G. Koeltl  
United States District Judge**